

June 27, 1997

D.P.U. 96-73/74, 96-75, 96-80/81, 96-83, 96-94 (Phase 4-C)

Consolidated Petitions of New England Telephone and Telegraph Company d/b/a NYNEX, Teleport Communications Group, Inc., Brooks Fiber Communications, AT&T Communications of New England, Inc., MCI Communications Company, and Sprint Communications Company, L.P., pursuant to Section 252(b) of the Telecommunications Act of 1996, for arbitration of interconnection agreements between NYNEX and the aforementioned companies.

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ORDER ON MOTION BY TCG FOR RECONSIDERATION

I. INTRODUCTION

On May 2, 1997, the Department issued an order in this proceeding ("Phase 4-B Order") which set forth our rulings with regard to a compliance filing made by New England Telephone and Telegraph Company d/b/a NYNEX ("NYNEX"). That compliance filing was submitted pursuant to our orders of December 4, 1996, ("Phase 4 Order") and February 5, 1997, ("Phase 4-A Order"), which established the method to be used by NYNEX in carrying out total element long-run incremental cost ("TELRIC") studies to determine the prices to be charged by NYNEX to competing local exchange carriers ("CLECs") for the use of unbundled network elements. NYNEX had submitted its compliance filing with the Department on February 14, 1997, and had amended that filing on March 14, 1997.

On May 21, 1997, Teleport Communications Group, Inc. ("TCG") filed a motion for reconsideration with regard to the Department's findings concerning the applicability of the transport and termination rates developed in this proceeding.

II. STANDARD OF REVIEW

The Department's policy on reconsideration is well settled. Reconsideration of previously decided issues is granted only when extraordinary circumstances dictate that we take a fresh look at the record for the express purpose of substantially modifying a decision reached after review and deliberation. Boston Edison Company, D.P.U. 90-270-A at 2-3 (1991); Essex County Gas Company, D.P.U. 87-59-A at 2 (1988); Western Massachusetts Electric Company, D.P.U. 85-270-C at 12-13 (1987); Hutchinson Water Company, D.P.U. 85-194-B at 1 (1986).

A motion for reconsideration should bring to light previously unknown or undisclosed facts that would have a significant impact upon the decision already rendered. It should not attempt to reargue issues considered and decided in the main case. Boston Edison Company, D.P.U. 90-270-A at 3 (1991); Western Massachusetts Electric Company, D.P.U. 84-25-A at 6-7 (1984); Boston Edison Company, D.P.U. 1720-B at 12 (1984); Hingham Water Company, D.P.U. 1590-A at 5-6 (1984); Boston Edison Company, D.P.U. 1350-A at 4 (1983); Trailways of New England, Inc., D.P.U. 20017, at 2 (1979); Cape Cod Gas Company, D.P.U. 19665-A at 3 (1979).¹ Alternatively, a motion for reconsideration may be based on the argument that the Department's treatment of an issue was the result of mistake or inadvertence. Massachusetts Electric Company, D.P.U. 90-261-B at 7 (1991); New England Telephone and Telegraph Company, D.P.U. 86-33-J at 2 (1989), citing Western Union Telegraph Company, D.P.U. 84-119-B (1985).

II. RATES FOR TRANSPORT AND TERMINATION

A. Positions of the Parties

TCG argues that the Department's rulings were based upon a mistaken or inadvertant understanding of the nature of the relief sought by TCG (TCG Motion at 1). TCG reiterates its position that a local call for reciprocal compensation purposes should include all intraLATA calls from a CLEC to NYNEX (id. at 3). It argues that the Department misunderstood its position on this issue as a request that NYNEX retail calling areas be changed (id. at 3-4). TCG states that it

¹ The Department has denied reconsideration when the request rests on an issue or updated information presented for the first time in the motion for reconsideration. See generally Western Massachusetts Electric Company, D.P.U. 85-270-C at 18-20 (1987); Western Massachusetts Electric Company, D.P.U. 86-280-A at 16-18 (1987).

only asked that locally-rated reciprocal compensation apply LATA-wide for the administrative inter-company billing of exchange traffic, not for the treatment of NYNEX retail traffic (id. at 4).

B. Analysis and Findings

TCG apparently misunderstands the nature of the Department's discussion in the Phase 4-B Order. We fully understand the difference between retail billing and reciprocal compensation between a CLEC and incumbent carrier. We understand, too, though, the inextricable relationship between the two, a relationship highlighted repeatedly by TCG in its discussion of the "price squeeze" it alleges will occur if its position is not adopted. TCG's current statement that the reciprocal compensation issue is "completely separate from the scope of the retail calling area" flies in the face of its own arguments.

In any event, our discussion in the Phase 4-B Order dealt fully with these issues. We recognized that some of the points raised by TCG might have validity. We ruled, however, that this was not the appropriate forum for their resolution. Phase 4-B Order at 8 (Department found this policy issue must be viewed in a broader forum than this kind of arbitration, such as in New England Telephone and Telegraph, D.P.U. 89-300, at 52-73 (1990) where the Department considered the primary calling area issue on a comprehensive, state-wide basis and developed the existing framework). TCG has raised no arguments here that we have not considered before or understood in their entirety. Our decision was not the result of a mistaken understanding or inadvertance. Accordingly, TCG's motion for reconsideration is denied.

III. ORDER

After due consideration, it is

ORDERED: That the Motion for Reconsideration TCG filed with the Department on May 21, 1997, relative to the rates for transport and termination, is hereby DENIED.

By Order of the Department,

John B. Howe, Chairman

Janet Gail Besser, Commissioner